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**Testimony of the National Women's Law Center
In Support of H.B. No. 6859 — An Act Concerning Predictable Scheduling**

Submitted to the Committee on Labor & Public Employees, Connecticut General Assembly

March 9, 2023

Dear Senator Kushner, Representative Porter, and Members of the Committee on Labor and Public Employees:

Thank you for holding this hearing and for the opportunity to submit this testimony on behalf of the National Women's Law Center (NWLC), a non-profit organization that has been working since 1972 to advance and protect gender justice, and to help women and families achieve economic security. NWLC is part of a national coalition helping to lead the movement to secure a fair workweek for working people, because unstable and unpredictable work schedules disproportionately impact women and are particularly detrimental to women with caregiving responsibilities. **We strongly support H.B. 6859, "An Act Concerning Predictable Scheduling," as an important step to combat unfair scheduling practices and build a more equitable economy.**

Unstable, unpredictable, and inadequate work hours impose high costs on working people, their families, and our broader economy. Even before the COVID-19 pandemic, people across Connecticut—disproportionately women and people of color—working in essential but low-paying jobs often had little notice of their work schedules, experienced last-minute shift cancellations that deprived them of vital income, and were given part-time hours when they needed full-time work to support their families.

Employers' use of "just-in-time" scheduling practices pre-dates the COVID-19 pandemic but has persisted through it, enabled by modern workforce management systems that use algorithms to base workers' schedules on perceived consumer demand and maximize flexibility for the employer at the expense of the employee.¹ In 2017, 65% of people working in hourly retail and food service jobs in Connecticut reported having irregular or variable work hours, and most received less than two weeks' notice of their work schedules²—conditions that can make it extremely challenging to meet their responsibilities outside of their jobs. Companies that rely on just-in-time scheduling also frequently spread work hours among many part-time employees so that they can "flex up" at a moment's notice;³ in Connecticut in 2017, 64% of hourly retail and food service workers who were working fewer than 30 hours per week wanted more hours.⁴ These volatile and inadequate work hours—and the volatile and inadequate incomes that result—undercut workers' efforts to budget for expenses and maintain family routines and increase economic hardship, including hunger and housing insecurity.⁵

Just-in-time scheduling practices can also undermine children's and families' well-being. Research shows that low wages and other working conditions that increase parents' stress—including unstable and unpredictable work hours—can undermine children's emotional and physical health.⁶ Children whose parents have unstable work schedules experience higher rates of emotional distress, increased school absences, worse sleep, and negative health outcomes for conditions like asthma.⁷ At the same time, volatile scheduling practices make it hard for families to arrange and afford high-quality child care,⁸ or to secure the care they need to manage a health condition or disability—challenges that have only intensified during the pandemic.

Women—particularly women of color—often bear the brunt of just-in-time scheduling practices that undermine their economic security and ability to care for themselves and their families.

The low-paid, hourly service sector jobs in which just-in-time scheduling practices are particularly concentrated are jobs that women, disproportionately women of color, are especially likely to hold.⁹ Women also still shoulder the majority of caregiving responsibilities in families¹⁰—and even before the pandemic, 72% of hourly retail and food service workers in Connecticut found that their work schedules made it hard for them to meet their caregiving responsibilities.¹¹ Black women and Latinas are especially likely to be breadwinners for their families,¹² and also are more likely to experience scheduling instability than their white counterparts, even within the same company.¹³

New research shows that unpredictable schedules can exacerbate the gender pay gap, due in part to conflicts with women's caregiving responsibilities outside of work.¹⁴ When women's jobs pay low wages and don't allow them to balance their responsibilities at work with their caregiving obligations; when they can't secure child care that allows them to work knowing their children are getting the care they need to thrive; when they can't get the rest or the medical treatment they need to keep themselves and their families healthy and productive; when they can't commit to classes to advance in their careers or even a second job that can help them make ends meet—it is hard, and sometimes impossible, for women to get and keep good jobs and advance in the workplace.

These barriers are among the factors reflected in the persistent gender wage gaps that we see across the country and in Connecticut, which are especially substantial for women of color and women who are mothers. For example, while women of all races working full time, year round in Connecticut typically make 83 cents for every dollar paid to a man,¹⁵ Asian women in Connecticut make 90 cents, white women make 81 cents, Black women make 56 cents, and Latinas make just 49 cents compared to white, non-Hispanic men.¹⁶ All of these gaps grow even wider if women's earnings are compared to men's without restriction to full-time wage earners, since women are far more likely than men to work in part-time jobs that, relative to full-time jobs, typically pay less per hour, lack benefits, and are more likely to feature just-in-time scheduling practices.¹⁷ And the gender pay gap is compounded by the persistence of the extraordinarily low minimum wage that employers may pay tipped workers in Connecticut, as women—disproportionately women of color—are the vast majority of the state's tipped workers.¹⁸ Predictable scheduling legislation, along with legislation to establish One Fair Wage for workers in Connecticut (S.B. 1177), would help close the pay gap and promote women's economic security.

H.B. 6859 can grant working people more stable, predictable, and adequate hours and help rebuild an economy that works for everyone.

Connecticut has already taken steps to ensure that workers who are subject to last-minute schedule changes receive some compensation through its longstanding reporting pay policy, which requires employers in the mercantile trade and restaurant industries to pay employees who report to work and are employed for fewer hours than their scheduled shifts.¹⁹ But to build a better economy in the wake of the pandemic—one that works for everyone, not just the wealthy few—Connecticut must do more.

Predictable scheduling legislation would help ensure that more than 250,000 retail, food service, hospitality, and long-term health care workers in Connecticut have the stability, predictability, and input in their work schedules that they need to meet their obligations on the job and in the rest of their lives. H.B. 6859 was informed by laws already enacted across the country,²⁰ and contains several important features:

- **H.B. 6859 recognizes the costs that working people and their families bear when they face last-minute schedule changes—and would compensate them accordingly.** Fair workweek laws address just-in-time scheduling practices where they are particularly pervasive: among large employers in service sector industries. By requiring covered employers to provide 14 days' notice of shifts and guaranteeing half time pay for any unworked hours when shifts are canceled or reduced with less than the required notice (or an extra hour of pay for other kinds of changes), H.B. 6859 would help compensate employees for the costs associated with changed shifts. These costs can include rearranging child care or not being able to pay a bill as expected—costs

that so many working people are not in a position to absorb. “Predictability pay” policies like the one in H.B. 6859 discourage unnecessary last-minute changes while allowing employers to make such changes when they are in fact necessary, so long as they provide the requisite pay to affected employees.

- **H.B. 6859 would discourage the unhealthy and unnecessary practice of “clopening.”** Like last-minute schedule changes, the practice of “clopening”—i.e., requiring an employee to work the closing shift one night and the opening shift the next morning—is particularly disruptive to family routines and can harm workers’ health and productivity on the job.²¹ H.B. 6859 would help ensure that workers in covered establishments have adequate time to travel and rest between shifts by prohibiting employers from requiring employees to work with less than about 11 hours between shifts; if an employee consents to work such a shift, the bill requires the employer to pay the employee at 1.5 times their rate of pay for the hours they work in a shift that begins less than 11 hours after their previous shift ended.
- **H.B. 6859 would promote opportunities for full-time work.** “Access to hours” provisions, like the one in H.B. 6859, require covered employers to offer available hours to current, qualified part-time employees before hiring new employees, temporary employees, or contractors—helping workers gain the hours and income they need to provide for themselves and their families.

H.B. 6859 would benefit employees and employers alike—because good scheduling practices are good for business.

Predictable and adequate hours make it easier for employees to secure child care and arrange transportation so that they can consistently be and stay at work—which in turn creates stability, predictability, and cost-savings for businesses. For example, when some Gap stores piloted strategies to improve consistency and worker-driven flexibility in shift scheduling, they saw higher productivity as well as a notable increase in sales.²²

Predictable scheduling legislation like H.B. 6859 is a common-sense solution that preserves employers’ flexibility and management discretion while establishing basic standards that support working families. The companies that would be covered by H.B. 6859 are already complying with similar laws in jurisdictions across the country.²³ Workforce management company Deputy, which provides technology that supports compliance with these laws, reports positive impacts of compliance among their clients, including more hours for workers and reduced rates of absences and tardiness, benefiting employers.²⁴

A study in Emeryville, California, found that after the city’s fair workweek policy went into effect, covered workers reported a significant decrease in work schedule instability, along with improvements in family well-being.²⁵ In Seattle, researchers similarly found that workers covered by the Secure Scheduling Ordinance experienced more predictable schedules, improved sleep and well-being, and increased financial security.²⁶ Children fare better, too, when their caregivers have fair work schedules. They are less likely to experience behavioral problems,²⁷ for example, and their parents are more likely to be able to engage in school activities.²⁸

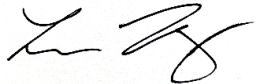
When working people have schedules they can plan around, enough hours and income to pay their bills, a voice in when they’ll work, and healthy hours with time to rest, their families and communities—as well as employers and the state’s economy—benefit.

* * *

Connecticut’s leadership on the minimum wage, earned sick leave, and paid family and medical leave demonstrate a commitment to building an economy where working women and families can thrive. Legislation to provide predictable schedules, as well as legislation to end the lower minimum wage for tipped workers, would help the many families across the state who are still struggling to make ends meet.

NWLC appreciates the efforts of the bill sponsors and this Committee to address the negative impact of just-in-time scheduling practices on the lives of women and families in Connecticut. **We thank you for your consideration and respectfully request a vote in favor of H.B. 6859.**

Sincerely,



Laura Narefsky
Counsel, Workplace Justice

¹ See generally, e.g., *Collateral Damage: Scheduling Challenges for Workers in Low-Paid Jobs and Their Consequences*, NWLC (Dec. 2020), <https://nwlc.org/wp-content/uploads/2017/04/Collateral-Damage-2020-12.18.20.pdf>.

² Daniel Schneider & Kristen Harknett, *Working in the Service Sector in Connecticut*, SHIFT PROJECT (Mar. 2018), <https://shift.hks.harvard.edu/working-in-the-service-sector-in-connecticut>.

³ See, e.g., Susan J. Lambert, *Passing the Buck: Labor Flexibility Practices that Transfer Risk onto Hourly Workers*, 61 J. HUMAN RELATIONS 1203, 1207 (2008).

⁴ *Working in the Service Sector in Connecticut*, *supra* note 2, at 2.

⁵ See generally, e.g., *Responses to and Repercussions from Income Volatility in Low- and Moderate-Income Households: Results from a National Survey*, Aspen Inst. (Dec. 2017), <http://www.aspenepic.org/responses-repercussions-income-volatility-low-moderate-income-households-results-national-survey>; Daniel Schneider & Kristen Harknett, *Hard Times: Routine Schedule Unpredictability and Material Hardship Among Service Sector Workers*, Wash. Ctr. for Equitable Growth (Oct. 2019), <https://equitablegrowth.org/working-papers/hard-times-routine-schedule-unpredictability-and-material-hardship-among-service-sector-workers>.

⁶ See generally *Collateral Damage*, *supra* note 1; Daniel Schneider & Kristen Harknett, *Parental Exposure to Routine Work Schedule Uncertainty and Child Behavior*, WASH. CTR. FOR EQUITABLE GROWTH (Oct. 2019), <https://equitablegrowth.org/working-papers/parental-exposure-to-routine-work-schedule-uncertainty-and-child-behavior>; Julie Vogtman & Karen Schulman, *Set Up to Fail: When Low-Wage Work Jeopardizes Parents' and Children's Success*, NWLC (Jan. 2016), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/01/FINAL-Set-Up-To-Fail-When-Low-Wage-Work-Jeopardizes-Parents%E2%80%99-and-Children%E2%80%99s-Success.pdf>.

⁷ See generally Elaine Zundl et al., *Still Unstable: The Persistence of Schedule Uncertainty During the Pandemic*, SHIFT PROJECT (Jan. 2022) <https://shift.hks.harvard.edu/still-unstable>.

⁸ See, e.g., Vogtman & Schulman, *supra* note 6, at 18; Dani Carillo et al., *On-call Job, On-Call Family: The Necessity of Family Support Among Retail Workers with Unstable Work Schedules* (Wash. Ctr. for Equitable Growth Working Paper 110116, Nov. 2016), <http://equitablegrowth.org/wp-content/uploads/2016/10/110116-WP-retail-workers-with-unstable-schedules.pdf>; Kristen Harknett, Daniel Schneider & Kristen Luhr, *Who Cares If Parents Have Unpredictable Work Schedules?: Just-in-Time Work Schedules and Child Care Arrangements*, Soc. PROBLEMS (Sept. 2020), <https://doi.org/10.1093/socpro/spaa020>.

⁹ See generally Jasmine Tucker & Julie Vogtman, *When Hard Work Is Not Enough: Women in Low-Paid Jobs* (April 2020), https://nwlc.org/wp-content/uploads/2020/04/Women-in-Low-Paid-Jobs-report_pp04-FINAL-4.2.pdf. In Connecticut, women make up 65% of the workforce across the 40 lowest-paying jobs, which include restaurant servers, bartenders, fast food workers, and hotel clerks. *Women in Low-Paid Jobs, State by State*, NWLC (April 2020), https://nwlc.org/wp-content/uploads/2020/04/Women-in-Low-Paid-Jobs-report_Tables.pdf.

¹⁰ See Bureau of Labor Statistics, *American Time Use Survey, Table 2: Time spent in primary activities and percent of the population engaging in each activity by sex, averages for May to December, 2019 and 2020*, U.S. Dep't of Labor (July, 2021), <https://www.bls.gov/news.release/atus.t02.htm>.

¹¹ See *Working in the Service Sector in Connecticut*, *supra* note 2, at 5. 72% of service sector workers report their work schedules always, often, or sometimes make it hard to meet caregiving responsibilities; 40 percent report always or often.

¹² See Sarah Jane Glynn, *Breadwinning Mothers Are Critical to Families' Economic Security*, CTR. FOR AM. PROGRESS (Mar. 2021), <https://www.americanprogress.org/article/breadwinning-mothers-critical-familys-economic-security>.

¹³ See Adam Storer, Daniel Schneider & Kristen Harknett, *What Explains Race/Ethnic Inequality in Job Quality in the Service Sector?*, 85 Am. Soc. Rev. 537 (2020), <https://journals.sagepub.com/doi/pdf/10.1177/0003122420930018>.

¹⁴ Valentin Bolotnyy & Natalia Emanuel, *How Unpredictable Schedules Widen the Gender Pay Gap*, HARV. BUS. REV. (July 1, 2022), <https://hbr.org/2022/07/how-unpredictable-schedules-widen-the-gender-pay-gap>.

¹⁵ See *The Wage Gap by State for Women Overall – March 2023*, NWLC (March 2023), https://nwlc.org/wp-content/uploads/2022/09/wage_gap_women_overall.pdf.

¹⁶ See *The Wage Gap, State by State*, NWLC (March 2023), <https://nwlc.org/resource/wage-gap-state-by-state>.

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- ¹⁷ See, e.g., Brooke LePage and Jasmine Tucker, *A Window into the Wage Gap: What's Behind It and How to Close It*, NWLC (Jan. 2023), <https://nwlc.org/wp-content/uploads/2023/01/2022-Wage-Gap-Factsheet-1.10.23.pdf>; Brooke LePage, *Part-Time Workers Are Facing Heightened Uncertainty During COVID—And Most Are Women*, NWLC (Feb. 2022), <https://nwlc.org/wp-content/uploads/2020/02/Part-time-workers-factsheet-v2-2.1.22.pdf>.
- ¹⁸ See *One Fair Wage: Women Fare Better in States with Equal Treatment for Tipped Workers*, NWLC (Feb. 2021), <https://nwlc.org/resource/one-fair-wage/>.
- ¹⁹ Conn. Agencies Regs. § 31-62-D2(d) (mercantile trade); Conn. Agencies Regs. § 31-62-E1 (hotels, hotel restaurants).
- ²⁰ See *State & Local Laws Advancing Fair Work Schedules*, NWLC (Oct. 2019), <https://nwlc.org/resource/state-and-local-laws-advancing-fair-work-schedules>; In 2022, Los Angeles and Berkeley, California also enacted fair workweek ordinances.
- ²¹ See *Scheduling Away Our Health: How Unpredictable Work Hours Affect Health and Well-Being*, HUMAN IMPACT PARTNERS 7-8 (2016), https://humanimpact.org/wp-content/uploads/Scheduling-Away-Our-Health_rev3.pdf.
- ²² Joan C. Williams et al., *The Stable Scheduling Study: Stable Scheduling Increases Productivity and Sales*, CTR. FOR WORKLIFE LAW 38 (Mar. 2018), <https://worklifelaw.org/wp-content/uploads/2019/02/Stable-Scheduling-Health-Outcomes-Report.pdf>.
- ²³ See *State & Local Laws Advancing Fair Work Schedules*, *supra* note 20.
- ²⁴ Communication from Krista Hardwick, legal counsel, Deputy (Jan. 28, 2020) (observing fair workweek laws have resulted in a 14% increase in hours for workers; absences and tardiness have gone down by over 30 %; and covered employers in fair workweek jurisdictions have seen a 3% decrease in labor costs).
- ²⁵ Elizabeth O. Ananat, Anna Gassman-Pines & John A. Fitz-Henley II, *The Effects of the Emeryville Fair Workweek Ordinance on the Daily Lives of Low-Wage Workers and Their Families*, 8 RUSSELL SAGE FOUND. J. SOC. SCIENCES 45 (2022), <https://doi.org/10.7758/RSF.2022.8.5.03>.
- ²⁶ Kristen Harknett, Daniel Schneider & Veronique Irwin, *Seattle's Secure Scheduling Ordinance: Year 2 Impact Report*, SHIFT PROJECT (Feb. 2021), <https://shift.hks.harvard.edu/seattles-secure-scheduling-ordinance-year-2-worker-impact-report/>.
- ²⁷ Daniel Schneider & Kristen Harknett, *Maternal Exposure to Work Schedule Unpredictability and Child Behavior*, 84 J. MARRIAGE & FAMILY 187 (2022), <https://doi.org/10.1111/jomf.12800>.
- ²⁸ See Anna Haley-Lock & L. Posey-Maddox, *Fitting It All In: How Mothers' Employment Shapes Their School Engagement*, 19 COMMUNITY, WORK & FAMILY 302 (2016), <https://doi.org/10.1080/13668803.2015.1023699>.